

DIVISION OF SPECIAL EDUCATION

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State Advisory Council on the Education of Children With Disabilities

August 26, 1999
5 Seasons Sports Club

Members in attendance: Maureen Greer (Brenda Alyea represented), David Schmidt, Mary Ramos, Kathy Wodicka, Carolyn Heier, Elaine Scaife (p.m. only), J. Bret Lewis, Steve Luehmann, Julie Swaim, Brett Bollinger, and Cathlene Hardy-Hansen.

Division Staff in attendance: Jackie Pitman, Sharon Knoth, Demaris Stewart, Becky Bowman, Cindy Conway, and Bridget Hand.

Others in attendance: Gary Collings with the ISEAS Project, Andy Rork and George Perry Interpreters.

The meeting was called to order at 10:05 a.m. Mrs. Wodicka had the Council introduce themselves. Mrs. Wodicka thanked the Division for the notebook and information provided before hand. Dr. Bollinger made a motion to approve the minutes from the previous meeting. Seconded by Mr. Schmidt. Motion carried.

Article 7 Revision

Mrs. Wodicka reminded the Council that the role it provides is advisory in nature. There are ten voting members in attendance today.

Ms. Knoth gave an overview of the number of responses received from the stakeholder comment document. Over 1,500 copies of the Stakeholder comment document were distributed. An electronic version was provided on our web site. There was a cumulative total of 2, 458 responses with 2,020 paper and 438 electronic. Each of the 65 special education planning districts was represented by at least one response. Of the responses received over the entire fifteen Rules:

430 were from Administrators

93 were from General Education Teachers

238 were from Special Education Teachers

70 were from therapists

827 were from parents

324 were from directors of special education

72 were from related service providers

316 were from "Other"

Each of the 10 Congressional Districts will have a public hearing. It is our intention to have the meetings during the first 2 weeks of November. Mrs. Bowman began with Rule 17 Definitions

and the Council worked its way through the Rule and pointed out areas of change. The first change in Rule 17 was in the definition of Behavioral Intervention Plan on page 2. The definition of Board of Special Education Appeals was omitted. The definition of caseload has changed significantly.

Certified personnel was clarified to indicate that it was for purposes of this Rule. A discussion of the Council ensued. The concern arose from inclusion of related service personnel in the definition. This would include bus drivers and paraprofessionals and they are not licensed by the Indiana Professional Standards Board. Dr. Bollinger recommended that we delete the words "Related Services Personnel" and add the words: "school psychologists and speech language pathologists".

Change in special education services has been revised to read Change in Placement. What was a separate definition in the comment document for Change in Placement for Disciplinary Purposes is now subsection (b) within the same definition. Community-Based Instruction was deleted because the term itself was not used anywhere in Article 7. Community Supported Intensive Services is now called Community Supported Services. The definition of Department of Education was deleted. The definition for Diagnostic Teaching Evaluation was changed with regard to students with a suspected disability. The definition now reads that it is used with students who have been determined eligible and the case conference has determined that additional information is necessary. The definition for Duration of Services has been shortened. The definition for Educational Records needs to be amended to include items that will be a part of the Alternate Assessment (video clips, audio clips, etc.). The definition for Eligibility Determination and the definition for Identification were consolidated to one definition which now reads Identification and Eligibility. The definition for Expedited Due Process Hearing was amended to read "in accordance with 511 IAC 7-30-6". The definition for expulsion was deleted because it is defined in Rule 29 where we speak to expulsion.

The definition for Extended School Year was amended to comply with the Federal Language. A discussion of the language which was removed ensued (maintaining of skills and gaining new skills). Mrs. Hardy-Hansen expressed concern as to how parents will express a need for ESY if that language is not there and requested the Council to keep this in mind as we go through the remaining rules.

Identification and eligibility, as stated earlier has been combined with what was Eligibility and what was Identification. Individualized Transition Plan was deleted as it is not used anywhere in the Rule. The definition for Job Coach was revised. The definition for Public Agency has been changed in that subsection 6 was deleted - private schools and facilities. The definition for school corporation was deleted, we speak to the public agency. The definitions for state operated school and statement of services were deleted. The definition of student with a disability has been amended to indicate that the student has been identified not merely evaluated. The definition of suspension was omitted because it is defined in Rule 29.

The definition for Teacher of Record has been expanded based on the comments we received. A discussion of this definition ensued. Mrs. Swaim reminded the Council that this issue arose when the West Central Indiana Special Education Cooperative came and presented to the Council to split North Montgomery from the Cooperative. How will this language ensure that the TOR knows the student?

Mrs. Heier made a motion to approve Rule 17 with the changes recommended by Dr. Bollinger. Seconded by Mrs. Swaim. Motion carried.

Rule 18

There was only one change made and it was in Section 1. Former sub-section (b) was split into (b) and (c).

Mr. Schmidt made a motion to approve Rule 18 as amended. Seconded by Mrs. Hardy-Hansen. Motion carried.

Rule 19

There were 2 changes made. In Section 1 subsection (b) was amended, a (3) was added and this basically replaces the old subsection (d) which was omitted.

The word illiterate was removed from Section 2(e)(1) and it was revised to read "unable to read or write".

Mr. Schmidt made a motion to accept the Rule as amended. Seconded by Mr. Luehmann. Motion carried.

Rule 20

There have been four revisions. Page 1, subsection (b) added university schools. On page 1, subsection (f) was amended to read the "Director of the Division of Special Education". On page 2, section 2(b)(4) had some language removed and Section 3(c) was amended to read "quarterly".

Mrs. Wodicka expressed concern that there is no language indicating that the Division will be in districts and monitoring the programs on an continuous or ongoing basis.

Dr. Lewis expressed concerns regarding section 2(b)(6). Benchmarks are where the Legislature is having districts focus rather than the performance based accreditation standards. Dr. Lewis made a motion requesting the Division review this section to ensure that the standards and language used are consistent with the state statute. Seconded by Mrs. Swaim. Motion carried.

Mr. Schmidt made a motion to approve Rule 20 based on the Division's review of the language as indicated in the above motion. Seconded by Mrs. Heier. Motion carried.

Rule 21

Section 2(a) has been amended to cover those exceptionality areas that don't have a teacher license (deaf blind, autism, other health impaired and traumatic brain injury). Section 3(c) has been amended school corporation was changed to school building. Section 3(d) has been changed with regard to the 12 _ hours for early childhood, it was not in the comment document

and it has now been placed back into the language being proposed. The issue of case load standards was discussed. Currently Article 7 has a provision for 8 students assigned to a teacher with a paraprofessional at any given time and the current language here hasn't any case loads specified. A discussion of having a caseload of 8 to 10 students - with an additional paraprofessional required when you reach 10. Then, if additional students are added after March 1 you are permitted to finish out the year without having to add another teacher so long as the teacher to student ratio remains at 1 adult for every 4 students. All of the other requirements of Article 7 would still be applicable (fulfillment of each IEP). This would all be with the understanding that the class size would never exceed 12 students with disabilities, or just 12 students? Mrs. Hardy-Hansen made a motion that the Division work on language which would initially require a certified teacher and a paraprofessional be assigned to the early childhood program. The class must maintain a ratio of 1:4 adult to students with disabilities with a maximum of 12 students with disabilities allowed. Seconded by Mrs. Swaim. Mrs. Hardy-Hansen requested a friendly amendment be made to the motion to change the maximum to 15 students (not students with disabilities). Mr. Schmidt moved to amend the motion to read as follows:

The Division will work on language which would initially require a certified teacher and a paraprofessional be assigned to the early childhood program. The class must maintain a ratio of 1:4 adult to students with disabilities with a maximum of 15 students. Mrs. Hardy-Hansen accepted the amendment as friendly. Those in favor 1. Those opposed 9. Motion defeated.

Dr. Lewis offered that the Division take the spirit of the discussion be taken into consideration and language be drafted for Article 7. Seconded by Mrs. Hardy-Hansen. Motion carried. Mr. Schmidt moved to approve Rule 21 with consideration of the discussions. Seconded by Mrs. Hardy-Hansen. Motion carried.

Rule 22

Section 1(b) has been amended as has Section 1(e)(2)(C) where we added language for permission for additional evaluations. At 1(e)(4) was added to indicate the parent's right to request a case conference be convened.

Dr. Bollinger made a motion to approve Rule 22 as amended. Seconded by Mrs. Heier. Motion carried.

Rule 23

2(c)(2) was changed from 10 business days to 15 business days. At 2(c)(3) language was added to indicate the district must inform the parent within no less than 5 business days as to their decision. At 2(c)(6) the FERPA hearing officer now has 10 business days to render a decision.

Mr. Schmidt made a motion to approve Rule 23 as amended. Seconded by Mr. Luehmann. Motion carried.

Rule 24

At 2(b)(1) some of the requirements have been moved to section 2(d) and an additional requirement has been added. At 2(c) the language regarding foster parents and length of stay has been eliminated and language was added to permit a trained foster parent be the educational surrogate parent. A discussion of 2(i) ensued with regard to paying an individual to be an ESP. There is an "extra" is not an employee of . . . which needs to be removed. A question arose as to whether an LEA employee can be an ESP for a student in another district? Another question arose regarding payment of the ESP for mileage or time - is it permissible? With Part B funds?

Dr. Lewis made a motion to approve Rule 24 with the questions above pursued by the Division. Seconded by Mr. Luehmann. Motion carried.

Rule 25

Section 1 has language added - the very last sentence is new. Mr. Schmidt requested that the may be changed to a shall. At 2(a)(2) a question arose regarding the ages specified regarding Childfind. The answer would be through Interagency Agreement with Part C.

Section 2(d) from the stakeholder document was omitted. Section 3 - what is now (a) was (c). In 3(b) a sentence has been added. In 3(d) Silvercrest was added. 4(e) is new and has been added to comply with the Federal regulations. However, in 4(3) the reference to 4(a) should be 4(d). Could we state that the case conference may conduct the review without a meeting and go directly into developing the IEP?

Dr. Bollinger moved that the language here (at 4(e) be moved to the section which speaks to re-evaluations. Seconded by Mr. Schmidt. It will be inserted at 7-25-6(d) and what is now (d) will become (e) and so forth - with reference back to the section preceding it which speaks to review which must be conducted. Motion carried.

Subsection 4(f) -- Rule 25 page 8 - you are comparing subsection (e) in the comment document and subsection (f) in the current document. The language which speaks to not requiring a school psychologist to be a part of the meeting. The new language is at 4(g) and indicates that their role is discretionary. A discussion of 4(f)(2) ensued - Mrs. Swaim expressed concern that she did not want them involved in the evaluation of her son. Dr. Bollinger proposed that we add language which speaks to obtaining permission from the parent FIRST and then contacting ISD, ISB, or Silvercrest to assist with the evaluation.

Dr. Lewis made a motion to strike 4(f)(2) altogether. Seconded by Mr. Schmidt. Mr. Schmidt withdrew his second and Dr. Lewis withdrew the motion.

Dr. Bollinger made a motion to include language at 4(f)(2) which speaks to the public agency, "with informed parent consent may elect. . ." Seconded by Mrs. Swaim. Motion carried.

Mrs. Heier made a motion to adjourn the meeting and re-convene tomorrow morning at 8:30 a.m. Seconded by Mrs. Swaim. Motion carried. Meeting adjourned at 3:45 p.m.

State Advisory Council Meeting
August 27, 1999
5 Seasons Sports Club

Members in attendance: David Schmidt, Mary Ramos, Kathy Wodicka, Carolyn Heier, J. Bret Lewis, Maureen Greer (Brenda Alyea represented), Steve Luehmann, Julie Swaim, Brett Bollinger, Elaine Scaife, and Cathlene Hardy-Hansen.

Division Staff in attendance: Jackie Pitman, Sharon Knoth, Becky Bowman, Cindy Conway, and Paul Ash.

Others in attendance: Gary Collings with the ISEAS Project, Andy Rork and Catherine Huston Interpreters.

The meeting was called to order at 8:40 a.m.

Rule 25

4(j) which speaks to the parent's receiving a copy of the evaluation report. We removed the language that the other participants would receive a copy - if they want to see it they may, but we did not believe that everyone must have an actual copy. Mrs. Hardy-Hansen expressed concern that this would not necessarily have to be a long meeting.

7-25-5(c) - independent educational evaluation. There have been some time frames placed into this section. Dr. Lewis requested that the word "receipt" be added here - so it is the date of the public agency's receipt of the parent's request. The Council agreed.

6(d) will have new language added, as per the discussion yesterday - with everything being shifted down another letter, and then 6(g) [which will be (h) after the new (d) is added] has been revised to indicate that the parent must receive a copy of the re-evaluation report. A discussion of merely mailing the report home without explanation ensued. What about adding language which we give the parent the option to call a meeting with the school in order to obtain a copy of the report. Does the NOTICE contain language that the parent may obtain a copy? Not necessarily. Dr. Bollinger expressed that he feels uncomfortable having language in here which speaks to mailing a copy of the report out without any type of an explanation. Parents have a right to know that they may request a copy of the evaluation but we don't want it merely mailed out to them without any type of explanation.

At (j) there are a few typographical errors - it should read a copy of the report shall be provided to and an explanation . . .

4(b) and 4(c) - timelines for evaluations. Mr. Schmidt made a motion to accept the 40 instructional days. Seconded by Mrs. Hardy-Hansen. A discussion ensued as this would actually make this 35 days (with the 5 days the school must give the evaluation report to the parent). One in favor, 9 opposed.

Dr. Lewis made a motion to have the evaluation timeline be 50 instructional days. Seconded by Mr. Schmidt. A discussion ensued. Two in favor, 8 opposed.

Dr. Bollinger made a motion to have the evaluation timeline be 60 instructional days. Seconded by Mrs. Heier. A discussion ensued. Dr. Lewis expressed concern that schools not merely look at this and say that they have 20 more days - there must be an effort to continue to meet the earlier time frame. Mrs. Hardy- Hansen expressed concern that there be an expedited route of some sort available for families. Mrs. Swaim expressed concern that parents be fully informed as to what their rights are with regard to requesting an evaluation. 7 in favor, 2 opposed, 1 absentia.

Mr. Schmidt moved to approve Rule 25 as amended. Seconded by Mrs. Heier. Motion carried.

Rule 26

The former exceptionality of Autism is now referred to as Autism Spectrum Disorder. This section (26-2) reflects major changes. At 7-26-6 there were several "NOs" and Mrs. Wodicka asked whether we knew why. Many of the comments reflected a desire to have this eligibility area - developmental delay - be expanded to age 9. A discussion of mental disability vs. mental handicap ensued. For those areas where there is no licensure (AU, DB, OHI, TBI) we have added language to require ongoing teacher training specific to the disability area. For multiple disabilities both examples include mental disability and Mrs. Hardy-Hansen asked whether the examples must both contain the mental disability. Another example will be provided. A discussion of the definition of orthopedic impairment ensued. Does developmental delay need specialized inservice training as well? No, there are 6 areas of licensure for early childhood.

Dr. Lewis moved to approve Rule 26. Seconded by Dr. Bollinger. Motion carried.

Rule 27

2(c)(3) is a newly added portion based on comments we received. 7(c) has timelines added from the comments we received. 9(a)(6) speaks to the continuum of services and we added the language for supplementary services. At 9(c) the language which permitted the classroom teacher to provide physical education was deleted. 9(e) is still being worked - it is the continuum for early childhood. 12 was substantially revised - the community supported services and residential services section has been amended so that procedural items have been removed. This is basically what was S-5 and then alternative services. Because of the discipline section speaking to alternative interim educational placement, we chose to remove the word alternative from this component. The Division will develop procedures and distribute them to the public agency. 13(a) was re-worded based on comments received and review of state statute.

Mr. Luehmann moved to approve Rule 27. Seconded by Mrs. Hardy-Hansen. Motion carried.

Rule 28

There was only one change here 28-2(d) was originally in the "old Article 7" and was inadvertently left out - it has been re-added at (d) and then everything else was moved down. The (d)(a), (d)(b), and (d)(c) need to be revised to read (d)(1), (d)(2), (d)(3). Mr. Schmidt expressed concerns that although it says this must be done, it is not happening at the local level. Dr. Bollinger expressed concern about not knowing exactly what a functional vocational evaluation

is at 3(b)(1)(B)(v). This is the Federal language. If additional information is obtained, it will be shared with the districts. Dr. Lewis asked for clarification regarding the age of majority and transfer of rights at 7-28-4.

Mr. Schmidt moved to approve Rule 28. Seconded by Mrs. Heier. Motion carried.

Rule 29

At 1 the subsections were re-ordered from the comment document and at (a) the last phrase was deleted (up to 10 instructional days). The re-ordering occurred between (b) and (g) - after (h) it is the same as the comment document. At 7-29-5(b) a time frame was added - it used to say as soon as practical which was very vague. The Division made a decision at 8(f) that the expedited evaluation must be conducted within twenty (20) instructional days. Dr. Lewis questioned whether the 5 days for the receipt of the report is applicable here. Mrs. Bowman indicated that no, it isn't - but we need to add language here to make that clear. A discussion of this section [8(f)] ensued.

Mrs. Hardy-Hansen moved to approve Rule 29. Seconded by Mr. Luehmann. Motion carried.

Rule 30

There were no revisions made to this Rule based on the comment document.

Mrs. Scaife moved to approve Rule 30. Seconded by Mr. Schmidt.

Rule 31

There have been a few changes to Rule 31 based on comments received. A subsection was eliminated [4(b)] as it was not a responsibility of the Division.

Mr. Schmidt moved to approve Rule 31. Seconded by Dr. Lewis. Motion carried.

The Council took a brief break.

Potential dates for the next Advisory Council Meeting were discussed. If the public hearings result in substantive changes being proposed, this group would need to review the proposed changes. There is the potential that all Rules except those which have substantive changes could "go forward". This would be an internal decision of the Department of Education. December 3 is the tentative date the Council would like to hold. The Council indicated that they were comfortable with the 5 Seasons as a site for upcoming meetings. February 11, March 10 (tentative), and April 14, 2000 were also determined as meeting dates.

Paul Ash presented to the Council on the Division's plan for monitoring special education planning districts. He had attended the Federal monitoring conference this past Spring. The material being used by the US Department of Education has applicability for the Division's monitoring of the local education agency. It is a multi-faceted process which has been revised from our previous method of monitoring districts based on the US DOE's procedures. There are four (4) major cluster areas with over 200 indicators throughout the four. Transition, general supervisory responsibilities, parent involvement, and least restrictive environment. As the

monitoring team reviewed the 200 indicators many were duplicative and were the responsibility of the Division and not the LEA. Therefore, there are about 95 indicators that the Division will be using with the LEAs. Every indicator is based on data - either existing data or data that will be compiled through surveys which may be conducted. The monitoring process will actually involve a self-assessment and a Division review of the data. Mr. Ash shared a flow chart of the OSEP Continuous Improvement Monitoring Process with the Council. This process involves seven (7) steps: Self Assessment, Validation Planning, Validation Data Collection, Verification and Consequences, Implement Improvement Strategies, Improvement Planning, and Reporting to the Public. Indicators are statements such as:

The incidence rate of disabilities for a planning district approximates that of the state and nation.

Students with disabilities are not suspended or expelled with greater frequency than nondisabled students.

Students with disabilities participate in district-wide and statewide assessments.

Students with disabilities are invited to and participate in conferences where transition is discussed.

The percentage of students with disabilities who progress in the general education curriculum increases each year.

Mr. Ash entertained questions and suggestions from the Council. Dr. Bollinger asked for clarification on the local level steering committee and how the report or data will be submitted to the Division. Mrs. Swaim asked whether this is done as a special education cooperative or corporation/district level. At this time we are looking at the 65 special education planning districts although much of the data is already broken out by school corporation (i.e. the ISTEP+ data). Mrs. Wodicka asked a question regarding the Steering Committee on the flow chart. The flow chart represents the Federal OSEP monitoring process. The Division envisions a parallel committee at the local level.

Mrs. Wodicka thanked Mr. Ash for his presentation. Mr. Schmidt moved that the Council adjourn. Seconded by Dr. Lewis. Motion carried. Meeting adjourned at 11:33 a.m.